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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,067	02/28/2002	Benjamin P. Hoag	83659AEK	1424
7590 05/05/2004			EXAMINER	
Paul A. Leipold Patent Legal Staff Eastman Kodak Company 343 State Street Rochester, NY 14650-2201			GARRETT, DAWN L	
			ART UNIT	PAPER NUMBER
			1774	
DATE MAILED: 05/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/086,067

**Applicant(s)**

HOAG ET AL.

**Examiner**

Dawn Garrett

**Art Unit**

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,8-15 and 17-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8-15 and 17-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 12, 2004 has been entered.
2. The amendment previously submitted on March 23, 2004 has been entered as requested in the request for continued examination dated April 12, 2004. Claims 1, 14, 23, and 24 were amended. New claims 27 and 28 were added. Claims 6, 7, and 16 are cancelled. Claims 1-5, 8-15, and 17-28 are pending.
3. The rejection of claims 1-11, 13-23, 25, and 26 under 35 U.S.C. 103(a) as being unpatentable over Shi et al. (US 5,972,247) in view of "New Laser Dyes", Applied Physics (Berlin), volume 3, no. 1, pages 81-88, (1974) is withdrawn due to applicant's persuasive argument regarding the secondary reference.
4. The rejection of claims 1-11, 13-15, and 19-26 under 35 U.S.C. 103(a) as being unpatentable over Shi et al. (US 5,972,247) in view of "Fluorescent Tricyclic beta-Azavinamidinium-BF<sub>2</sub> Complexes", Sathyamoorthi et al., Heteroatom Chemistry, Vol. 4, No. 6, pages 603-608, 1993 is withdrawn due to applicant's persuasive argument regarding the secondary reference.
5. The rejection of claim 12 under 35 U.S.C. 103(a) as being unpatentable over Shi et al. (US 5,972,247) in view of "Fluorescent Tricyclic beta-Azavinamidinium-BF<sub>2</sub> Complexes",

Sathyamoorthi et al., Heteroatom Chemistry, Vol. 4, No. 6, pages 603-608, 1993 in further view of Shirasaki (US 5,834,894) is withdrawn due applicant's persuasive argument regarding the secondary reference, Sathyamoorthi et al.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-5, 8-15, and 17-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant indicates support for the claim 1 amendment is found in original claim 7. Claim 1 sets forth a bis(**azinyl**)methene boron complex group wherein at least one of the azinyl groups has substituent groups joined to form a fused ring whereas previous original claim 7 was drawn to a specific azinyl group compound, bis(**pyridinyl**)methene, wherein at least one of the **pyridyl** groups has substituent groups joined to form a fused ring. The specification clearly supports the specific compounds of original claim 7 at page 3, lines 26-31; however, it is not seen where the specification clearly supports the broader limitation that bis(**azinyl**)methene boron complexes may have substituent groups joined to form a fused ring. The specification does not specifically describe such an azinyl complex and does not set forth compound formulas showing possible azinyl group complexes with fused rings within the full scope of current claim 1. Similarly for new claim 27 that is dependent upon claim 1, it is not seen where the

Art Unit: 1774

specification clearly supports all possible bis(**azinyl**)methene boron complexes having hydrogen, alkyl groups or an aryl groups as substituents for the methene group. The Y substituents hydrogen, alkyl group and aryl group for the very specific claim 14 compound, formula (1), are clearly supported in the specification at page 5, lines 3 and 4.

### ***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1, 14, 15, 17-23, 25, and 26 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 14-26 of U.S. Patent No. 6,661,023. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims recite the same boron complexes as a dopants for a light emitting layer in an OLED device. Although claim 1 in each of the cases differ as to the general term used to describe the dopants, the dopant formulas in the dependent claims are the same.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-5, 8-15, and 17-28 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments with regard to the previous rejections over prior art were found persuasive. The secondary references in the prior

Art Unit: 1774

rejections fail to teach clearly or to render obvious the incorporation of the boron complexes they teach in an light emitting layer of an organic electroluminescent device.

*Conclusion*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is 571-272-1523. The examiner can normally be reached Monday through Friday during normal business hours. Please allow the examiner twenty-four hours to return your call.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly, can be reached at 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAWN GARRETT  
EXAMINER  
ART UNIT 1774

D.G.  
April 30, 2004